

AFFIDAVIT

True Copy of Policy

STATE OF WISCONSIN      )  
                                )  
SHEBOYGAN COUNTY      )

Steve Heinen, Manager - Commercial Underwriting of ACUITY, A Mutual Insurance Company, being familiar with the forms used by the company in its regular course of business and being its custodian of underwriting records and files, certifies that he has checked the records for policy number L40293 issued to Millennium Financial Holdings LLC and covering Commercial Auto, Commercial Excess Liability, Employee Benefits Liability during the policy term from 05/17/2007 to 05/17/2008.

THAT said policy according to the records was subject to the Coverages and Limits, Insuring Agreements, Conditions, Exclusions, and applicable Endorsements as attached.



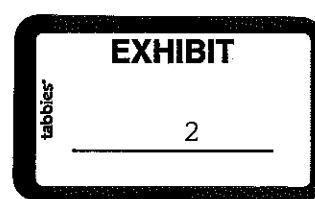
---

Steve Heinen

Subscribed and sworn to before me  
this 14 day of March, 2013



Notary Public, State of Wisconsin  
My Commission: Exp. 6-8-2014





## COMMERCIAL AUTO COVERAGE PART

### Item One

First Named Insured and Address:

MILLENNIUM FINANCIAL HOLDINGS  
LLC  
PO BOX 730  
BRIDGETON MO 63044

### Garage Renewal Declarations

Agency Name and Number:

THE DELP COMPANY  
6700-AE

Policy Number: L40293

Policy Period: Effective Date: 05-17-07  
Expiration Date: 05-17-08

12:01 A.M. standard time at  
your mailing address shown  
in the declarations

In return for the payment of the premium and subject to  
all the terms of the policy, we agree to provide the  
insurance coverage as stated in the same.

### Item Two

### SCHEDULE OF COVERAGES AND COVERED AUTOS

Each of these coverages applies only to those  
autos shown as covered autos by the entry of one  
or more of the symbols from the Covered Autos

section of the Garage Coverage Form next to the  
name of the coverage. Entry of symbols next to  
Liability provides coverage for Garage Operations.

Coverages	Covered Auto Symbols	Covered Autos	Limit of Insurance		Premium
			Garage Operations	Other Than Covered Autos	
Liability	21	\$ 500,000 each accident	\$ 500,000 each accident 1,500,000 aggregate	\$ 14,240.00	
			Limit of Insurance		
Medical Payments	22	\$ 5,000 each person			873.00
Uninsured Motorists	22	500,000 each person	500,000 each accident		538.00
Underinsured Motorists	22	500,000 each person	500,000 each accident		1,066.00
Garagekeepers' Specified Causes of Loss	30	See Item Five.			495.00
Collision	30	See Item Five.			518.00
Estimated Schedule Premium					\$ 17,730.00

Page 2  
Policy Number: L40293  
Effective Date: 05-17-07

Cost of hire means the total amount you incur for the hire of autos you do not own (not including autos you borrow or rent for your partners or employees or their family members). Cost of hire does not include charges for services performed by motor carriers of property or passengers.

#### PREMIUM SUMMARY

Estimated Schedule Premium .....	\$ 17,730.00
Estimated Endorsement Premium .....	1,953.00
<b>Estimated Advance Premium .....</b>	<b>\$ 19,683.00</b>

#### COVERAGE FORMS AND ENDORSEMENTS APPLICABLE TO GARAGE COVERAGE

Form Number	Form Title	Premium
CA-0005F (09-02)	Garage Coverage Form .....	
IL-7012 (11-05)	Asbestos Exclusion .....	
IL-0017F (11-98)	Common Policy Conditions .....	
IL-0021F (11-85)	Nuclear Energy Liability Exclusion - Broad Form .....	
CA-7096 (12-93)	Truth In Lending .....	
CA-7095 (07-97)	Federal Odometer Statute Endorsement .....	100.00
CA-7112 (03-00)	Title Paper Preparation - Errors and Omissions .....	100.00
CA-2514F (10-03)	Broadened Coverage - Garages .....	125.00
CA-7180 (04-94)	Coverage For Work You Performed .....	1,424.00
CA-9903F (07-97)	Auto Medical Payments Coverage .....	204.00
CA-2505F (07-97)	Garage Locations and Operations Medical Payments Coverage .....	
CA-0040R (02-03)	War Exclusion - Garage Coverage Form .....	
CA-0165F (10-06)	Missouri Changes .....	
CA-0169R (10-01)	Missouri Changes - Auto Repair Shops and Service Stations - Pollution Exclusion .....	
CA-0219F (03-03)	Missouri Changes - Cancellation and Nonrenewal .....	
CA-2104F (04-01)	Missouri Uninsured Motorists Coverage .....	
CA-2156F (04-01)	Missouri Split Uninsured Motorists Coverage Limits .....	
CA-3104F (04-01)	Missouri Underinsured Motorists Coverage .....	
CA-3105F (03-94)	Missouri Split Underinsured Motorists Coverage Limits .....	
CA-2384F (01-06)	Exclusion of Terrorism .....	
CA-7018 (12-93)	Repairs By The Named Insured .....	
CA-7161 (06-03)	Illinois Changes .....	
CA-7224 (06-03)	Illinois Garage Liability Coverage Changes .....	
CA-7162 (03-04)	Illinois Uninsured and Underinsured Motorists Coverages .....	
<b>Estimated Endorsement Premium .....</b>	<b>\$ 1,953.00</b>	

Policy Number: L40293  
 Effective Date: 05-17-07

**THE NAMED INSURED'S BUSINESS IS:**

AUTO DEALERSHIP

**AUDIT PERIOD**

Annual

**Item Three**  
**LOCATIONS WHERE YOU CONDUCT GARAGE OPERATIONS**

<b>Location Number</b>	<b>Address</b>
001	12750 SAINT CHARLES ROCK BRIDGETON MO
002	3550 HOMER ADAMS PKWY ALTON IL

**GARAGE COVERAGE FORM - AUTO DEALERS' SUPPLEMENTARY SCHEDULE**

**Item Four**  
**LIABILITY AND MEDICAL PAYMENTS COVERAGE - PREMIUMS**

*Garage Operations:*

<b>Location Number</b>	<b>Payroll Class</b>	<b>Estimated Payroll</b>	<b>Rates Per \$100 of Payroll</b>		<b>Liability BI Premium</b>	<b>Liability PD Premium</b>	<b>Medical Payments Premium</b>
			<b>BI</b>	<b>PD</b>			
001	A	91,000	7.15	Included	6,507.00	Included	
	B	6,000	46.56	Included	2,794.00	Included	
	C	33,800	7.15	Included	2,417.00	Included	
Estimated Location Premium .....					11,718.00	Included	719.00
Minimum Premium .....					1,862.00	Included	113.00
002	A	41,600	5.39	Included	2,242.00	Included	
	B	If any	35.02	Included		Included	
	C	5,200	5.39	Included	280.00	Included	
Estimated Location Premium .....					2,522.00	Included	154.00
Minimum Premium .....					1,401.00	Included	85.00
<b>Estimated Garage Operations Premiums .....</b>					<b>14,240.00</b>	<b>Included</b>	<b>873.00</b>
<b>Estimated Liability and Medical Payments Premiums .....</b>					<b>14,240.00</b>	<b>Included</b>	<b>873.00</b>

Policy Number: L40293  
 Effective Date: 05-17-07

Class A includes all clerical office employees. Class B includes proprietors, partners, owners and officers active in the business and all other employees whose duties involve driving automobiles or who are furnished with an automobile. Class C includes all other employees. The payroll is determined by including all class B personnel at the fixed amount of \$2,000 annually and all class A and C personnel at their actual wage, including commissions, bonuses and overtime wages, but subject to an average weekly

maximum of \$100 per employee.

Part-time employees working an average of 20 hours or more a week for the number of weeks worked are subject to an average weekly maximum of \$100 per employee.

Part-time employees working an average of less than 20 hours a week for the number of weeks worked are subject to an average weekly maximum of \$50 per employee.

#### Item Five **GARAGEKEEPERS' COVERAGE - COVERAGES AND PREMIUMS**

Location Number	Coverage	Limit of Insurance (For Each Location)	Premium
001	Specified Causes of Loss	\$150,000 minus \$1,000 deductible for each customer's auto for loss caused by theft or mischief or vandalism subject to \$5,000 maximum deductible for all such loss in any one event.	\$ 495.00
001	Collision	\$150,000 minus \$1,000 deductible for each customer's auto.	518.00
002	Specified Causes of Loss	\$150,000 minus \$1,000 deductible for each customer's auto for loss caused by theft or mischief or vandalism subject to \$5,000 maximum deductible for all such loss in any one event.	Included
002	Collision	\$150,000 minus \$1,000 deductible for each customer's auto.	Included
<b>Estimated Garagekeepers' Premium .....</b>			<b>\$ 1,013.00</b>

#### Item Six **LIABILITY COVERAGE FOR YOUR CUSTOMERS**

In accordance with paragraph a(2)(d) of Who is an Insured under Section II - Liability Coverage, liability coverage for your customers is limited in the following locations: 001, 002.

#### **ADDITIONAL NAMED INSUREDS**

**WHO IS AN INSURED** includes the following Additional Named Insureds:

BN PROPERTIES LLC  
 CAR CREDIT CITY LLC  
 CAR SERVICE CITY LLC  
 NATIONAL NAME HOLDING LLC  
 GENERAL CREDIT ACCEPTANCE COMPANY LLC  
 HAP PROPERTIES LLC  
 CAR CREDIT ACCEPTANCE COMPANY LLC  
 SCRR PROPERTY LLC

Page 5

Policy Number: L40293  
Effective Date: 05-17-07

FIRST NAMED INSURED IS:

LIMITED LIABILITY COMPANY

## GARAGE COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declara-

tions. The words "we," "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in italics have special meaning. Refer to Section VI - Definitions.

### SECTION I - COVERED AUTOS

Item Two of the Declarations shows the *autos* that are covered *autos* for each of your coverages. The following numerical symbols describe the *autos* that may be covered *autos*. The symbols entered next to a coverage on the Declarations designate the only *autos* that are covered *autos*.

#### A. DESCRIPTION OF COVERED AUTO DESIGNATION SYMBOLS

##### SYMBOL DESCRIPTION

21 = ANY AUTO.

22 = OWNED AUTOS ONLY. Only those *autos* you own (and for Liability Coverage any *trailers* you do not own while attached to power units you own). This includes those *autos* you acquire ownership of after the policy begins.

23 = OWNED PRIVATE PASSENGER AUTOS ONLY. Only the private passenger *autos* you own. This includes those private passenger *autos* you acquire ownership of after the policy begins.

24 = OWNED AUTOS OTHER THAN PRIVATE PASSENGER AUTOS ONLY. Only those *autos* you own that are not of the private passenger type (and for Liability Coverage any *trailers* you do not own while attached to power units you own). This includes those *autos* not of the private passenger type you acquire ownership of after the policy begins.

25 = OWNED AUTOS SUBJECT TO NO-FAULT. Only those *autos* you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those *autos* you acquire ownership of after the policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.

26 = OWNED AUTOS SUBJECT TO A COMPULSORY UNINSURED MOTORISTS LAW. Only those *autos* you own that because of the law in

the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those *autos* you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.

27 = SPECIFICALLY DESCRIBED AUTOS. Only those *autos* described in Item Seven of the Non-dealers' and Trailer Dealers' Supplementary Schedule or Item Ten of the Dealers' Supplementary Schedule for which a premium charge is shown (and for Liability Coverage any *trailers* you do not own while attached to a power unit described in Item Seven or Item Ten).

28 = HIRED AUTOS ONLY. Only those *autos* you lease, hire, rent or borrow. This does not include any *auto* you lease, hire, rent or borrow from any of your employees, partners or members of their households.

29 = NONOWNED AUTOS USED IN YOUR GARAGE BUSINESS. Any *auto* you do not own, lease, hire, rent or borrow used in connection with your garage business described in the Declarations. This includes *autos* owned by your employees, partners (if you are a partnership), members (if you are a limited liability company) or members of their households while used in your garage business.

30 = AUTOS LEFT WITH YOU FOR SERVICE, REPAIR, STORAGE OR SAFEKEEPING. Any customer's land motor vehicle, trailer or semi-trailer while left with you for service, repair, storage or safekeeping. Customers include your employees and members of their households who pay for the services performed.

31 = DEALERS AUTOS AND AUTOS HELD FOR SALE BY NON-DEALER OR TRAILER DEALERS (PHYSICAL DAMAGE COVERAGES). Any autos and the interests in these autos described in Item Seven of the Dealers' Supplementary Schedule or Item Ten of the Nondealers' and Trailer Dealers' Supplementary Schedule.

B. OWNED AUTOS YOU ACQUIRE AFTER THE POLICY BEGINS

1. If symbols 21, 22, 23, 24, 25 or 26 are entered next to a coverage in Item Two of the Declarations, then you have coverage for autos that you acquire of the type described for the remainder of the policy period.
2. But, if symbol 27 is entered next to a coverage in Item Two of the Declarations, an auto you acquire will be a covered auto for that coverage only if:
  - a. We already cover all autos that you own for that coverage or it replaces an auto you previously owned that had

that coverage; and

- b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. CERTAIN TRAILERS AND TEMPORARY SUBSTITUTE AUTOS

If Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered autos for Liability Coverage:

1. Trailers with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. Any auto you do not own while used with the permission of its owner as a temporary substitute for a covered auto you own that is out of service because of its:
  - a. Breakdown;
  - b. Repair;
  - c. Servicing;
  - d. Loss; or
  - e. Destruction.

## SECTION II - LIABILITY COVERAGE

A. COVERAGE

1. Garage Operations - Other Than Covered Autos

- a. We will pay all sums an insured legally must pay as damages because of *bodily injury* or *property damage* to which this insurance applies caused by an accident and resulting from *garage operations* other than the ownership, maintenance or use of covered autos.

We have the right and duty to defend any insured against a suit asking for these damages. However, we have no duty to defend any insured against a suit seeking damages for *bodily injury* or *property damage* to which this insurance does not apply. We may investigate and settle any claim or suit as we consider appropriate. Our duty to defend or settle ends when the applicable Liability Coverage Limit of Insurance - *Garage Operations - Other Than Covered Autos* has been exhausted by payment of judgments or settlements.

- b. This insurance applies to *bodily injury* and *property damage* only if:
  - (1) The accident occurs in the coverage territory;
  - (2) The *bodily injury* or *property damage* occurs during the policy period; and

(3) Prior to the policy period, no *insured* listed under Who Is An Insured and no *employee* authorized by you to give or receive notice of an accident or claim, knew that the *bodily injury* or *property damage* had occurred, in whole or in part. If such a listed *insured* or authorized *employee* knew, prior to the policy period, that the *bodily injury* or *property damage* occurred, then any continuation, change or resumption of such *bodily injury* or *property damage* during or after the policy period will be deemed to have been known prior to the policy period.

c. *Bodily injury* or *property damage* which occurs during the policy period and was not, prior to the policy period, known to have occurred by an *insured* listed under Who Is An Insured or any *employee* authorized by you to give or receive notice of an accident or claim, includes any continuation, change or resumption of that *bodily injury* or *property damage* after the end of the policy period.

d. *Bodily injury* or *property damage* will be deemed to have been known to have occurred at the earliest time when any *insured* listed under Who Is An Insured or any *employee* authorized by you to

give or receive notice of an accident or claim:

- (1) Reports all, or any part, of the *bodily injury* or *property damage* to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the *bodily injury* or *property damage*; or
- (3) Becomes aware by any other means that *bodily injury* or *property damage* has occurred or has begun to occur.

## 2. Garage Operations - Covered Autos

We will pay all sums an *insured* legally must pay as damages because of *bodily injury* or *property damage* to which this insurance applies, caused by an *accident* and resulting from *garage operations* involving the ownership, maintenance or use of covered autos.

We will also pay all sums an *insured* legally must pay as a *covered pollution cost* or expense to which this insurance applies, caused by an *accident* and resulting from *garage operations* involving the ownership, maintenance or use of covered autos. However, we will only pay for the *covered pollution cost* or expense if there is either *bodily injury* or *property damage* to which this insurance applies that is caused by the same *accident*.

We have the right and duty to defend any *insured* against a *suit* asking for such damages or a *covered pollution cost* or expense. However, we have no duty to defend any *insured* against a *suit* seeking damages for *bodily injury* or *property damage* or a *covered pollution cost* or expense to which this insurance does not apply. We may investigate and settle any claim or *suit* as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance - Garage Operations - Covered Autos has been exhausted by payment of judgments or settlements.

## 3. Who Is an Insured

a. The following are *insureds* for covered autos:

- (1) You for any covered auto.
- (2) Anyone else while using with your permission a covered auto you own, hire or borrow except:
  - (a) The owner or anyone else from whom you hire or borrow a covered auto. This exception does not apply if the cov-

ered auto is a trailer connected to a covered auto you own.

- (b) Your employee if the covered auto is owned by that employee or a member of his or her household.
  - (c) Someone using a covered auto while he or she is working in a business of selling, servicing, repairing, parking or storing autos unless that business is your garage operations.
  - (d) Your customers, if your business is shown in the Declarations as an *auto dealership*. However, if a customer of yours:
    - (i) Has no other available insurance (whether primary, excess or contingent), they are an *insured* but only up to the compulsory or financial responsibility law limits where the covered auto is principally garaged.
    - (ii) Has other available insurance (whether primary, excess or contingent) less than the compulsory or financial responsibility law limits where the covered auto is principally garaged, they are an *insured* only for the amount by which the compulsory or financial responsibility law limits exceed the limits of their other insurance.
  - (e) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered auto owned by him or her or a member of his or her household.
- (3) Anyone liable for the conduct of an *insured* described above but only to the extent of that liability.
- b. The following are *insureds* for garage operations other than covered autos:
- (1) You.
  - (2) Your partners (if you are a partnership), members (if you are a limited liability company) employees, directors or shareholders but only while acting within the scope of their duties.

#### **4. Coverage Extensions**

##### **a. Supplementary Payments**

In addition to the Limit of Insurance, we will pay for the *insured*:

- (1) All expenses we incur.
- (2) Up to \$2,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an *accident* we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any *suit* against the *insured* we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the *insured* at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All costs taxed against the *insured* in any *suit* against the *insured* we defend.
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any *suit* against the *insured* we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

##### **b. Out of State Coverage Extensions**

While a covered *auto* is away from the state where it is licensed we will:

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limit or limits specified by a compulsory or financial responsibility law in the jurisdiction where the covered *auto* is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out of state vehicles by the jurisdiction where the covered *auto* is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

#### **B. EXCLUSIONS**

This insurance does not apply to any of the following:

##### **1. Expected or Intended Injury**

*Bodily injury or property damage expected or intended from the standpoint of the insured.* But for garage operations other than covered autos this exclusion does not apply to *bodily injury* resulting from the use of reasonable force to protect persons or property.

##### **2. Contractual**

Liability assumed under any contract or agreement. But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an *insured contract* provided the *bodily injury or property damage* occurs subsequent to the execution of the contract or agreement; or
- b. That the *insured* would have in the absence of the contract or agreement.

##### **3. Workers' Compensation**

Any obligation for which the *insured* or the *insured's* insurer may be held liable under any workers' compensation law, disability benefits law, unemployment compensation law or any similar law.

##### **4. Employee Indemnification and Employer's Liability**

*Bodily injury* to:

- a. An employee of the *insured* arising out of and in the course of:
  - (1) Employment by the *insured*; or
  - (2) Performing duties related to the conduct of the *insured's* business; or
- b. The spouse, child, parent, brother or sister of that employee as a consequence of paragraph a above.
- c. A person arising out of any:
  - (1) Refusal to employ that person;
  - (2) Termination of that person's employment; or
  - (3) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- d. The spouse, child, parent, brother or sister of that person as a consequence of *bodily injury* to that person at whom any of the employment-related practices described in paragraphs (1), (2) or (3) above as directed.

This exclusion applies:

- (1) Whether the *insured* may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to *bodily injury* to domestic *employees* not entitled to workers' compensation benefits or to liability assumed by the *insured* under an *insured contract*. For the purposes of the Coverage Form, a *domestic employee* is a person engaged in household or domestic work performed principally in connection with a residence premises.

#### **5. Fellow Employee**

*Bodily injury* to any fellow *employee* of the *insured* arising out of and in the course of the fellow *employee*'s employment or while performing duties related to the conduct of your business.

#### **6. Care, Custody or Control**

*Property damage* to or *covered pollution cost or expense* involving:

- a. Property owned, rented or occupied by the *insured*;
- b. Property loaned to the *insured*;
- c. Property held for sale or being transported by the *insured*; or
- d. Property in the *insured's* care, custody or control.

But this exclusion does not apply to liability assumed under a sidetrack agreement.

#### **7. Leased Autos**

Any covered auto while leased or rented to others. But this exclusion does not apply to a covered auto you rent to one of your customers while their auto is left with you for service or repair.

#### **8. Pollution Exclusion Applicable to Garage Operations - Other Than Covered Autos**

- a. *Bodily injury or property damage* arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants*:

- (1) At or from any premises, site or location that is or was at any time owned or occupied by, or rented or loaned to, any *insured*;
- (2) At or from any premises, site or location that is or was at any time used by or for any *insured* or others for the handling, storage, disposal, processing or treatment of waste;

- (3) At or from any premises, site or location on which any *insured* or any contractors or subcontractors working directly or indirectly on any *insured's* behalf are performing operations:
  - (a) To test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of the *pollutants*; or
  - (b) If the *pollutants* are brought on or to the premises, site or location in connection with such operations by such *insured*, contractor or subcontractor.
- (4) That are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any *insured* or any person or organization for whom you may be legally responsible.

Paragraphs a(1) and a(3)(b) do not apply to *bodily injury or property damage* arising out of heat, smoke or fumes from a hostile fire. A hostile fire means one that becomes uncontrollable, or breaks out from where it was intended to be.

Paragraph a(1) does not apply to *bodily injury* if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building.

Paragraph a(3)(b) does not apply to *bodily injury or property damage* sustained within a building and caused by the release of gases, fumes or vapors from material brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor.

- b. Any loss, cost or expense arising out of any:
  - (1) Request, demand, order or statutory or regulatory requirement that any *insured* or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of *pollutants*;
  - (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of *pollutants*.

However, this paragraph does not apply

to liability for damages because of *property damage* that the *insured* would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or *suit* by or on behalf of a governmental authority.

**9. Pollution Exclusion Applicable to Garage Operations - Covered Autos**

*Bodily injury* or *property damage* arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants*:

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered *auto*;
  - (2) Otherwise in the course of transit by or on behalf of the *insured*; or
  - (3) Being stored, disposed of, treated or processed in or upon the covered *auto*;
- b. Before the *pollutants* or any property in which the *pollutants* are contained are moved from the place where they are accepted by the *insured* for movement into or onto the covered *auto*; or
- c. After the *pollutants* or any property in which the *pollutants* are contained are moved from the covered *auto* to the place where they are finally delivered, disposed of or abandoned by the *insured*.

Paragraph a above does not apply to fuels, lubricants, fluids, exhaust gases or other similar *pollutants* that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered *auto* or its parts, if the *pollutants* escape, seep, migrate, or are discharged, dispersed or released directly from an *auto* part designed by its manufacturer to hold, store, receive or dispose of such *pollutants*.

Paragraphs b and c above of this exclusion do not apply to accidents that occur away from premises owned by or rented to an *insured* with respect to *pollutants* not in or upon a covered *auto* if:

- (1) The *pollutants* or any property in which the *pollutants* are contained are upset, overturned or damaged as a result of the maintenance or use of a covered *auto*; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the *pollutants* is caused directly by such upset, overturn or damage.

**10. Racing**

Covered *autos* while used in any professional or organized racing or demolition contest or stunt activity, or while practicing for such contest or activity. This insurance also does not apply while that covered *auto* is being prepared for such a contest or activity.

**11. Watercraft or Aircraft**

Any watercraft or aircraft except watercraft while ashore on premises where you conduct *garage operations*.

**12. Defective Products**

*Property damage* to any of your *products*, if caused by a defect existing in your *products* or any part of your *products*, at the time it was transferred to another.

**13. Work You Performed**

*Property damage* to work you performed if the *property damage* results from any part of the work itself or from the parts, materials or equipment used in connection with the work.

**14. Loss of Use**

Loss of use of other property not physically damaged if caused by:

- a. A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.
- b. A defect, deficiency, inadequacy or dangerous condition in your *products* or work you performed. But this exclusion, 14b, does not apply if the loss of use was caused by sudden and accidental damage to or destruction of your *products* or work you performed after they have been put to their intended use.

**15. Product Recall**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of your *products* or work you performed or other property of which they form a part, if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**16. War**

*Bodily injury* or *property damage* due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

## **17. Liquor Liability**

- Bodily injury or property damage* for which an *insured* may be held liable by reason of:
- a. Causing or contributing to the intoxication of any person;
  - b. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
  - c. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you use the premises in part for the following purposes:

- (1) Serving or furnishing alcoholic beverages for a charge whether or not such activity:
  - (a) Requires a license; or
  - (b) Is for the purpose of financial gain or livelihood; or
- (2) Serving or furnishing alcoholic beverages without a charge, if a license is required for such activity.

## **C. LIMIT OF INSURANCE**

### **1. Aggregate Limit of Insurance - Garage Operations - Other Than Covered Autos**

For *garage operations* other than the ownership, maintenance or use of covered *autos*, the following applies:

Regardless of the number of *insureds*, claims made or *suits* brought or persons or organizations making claims or bringing *suits*, the most we will pay for the sum of all damages involving *garage operations* other than covered *autos* is the Aggregate Limit of Insurance - Garage Operations - Other Than Covered Autos for Liability Coverage shown in the Declarations.

Damages payable under the Aggregate Limit of Insurance - Garage Operations - Other Than Covered Autos consist of damages resulting from *garage operations*, other than the ownership, maintenance or use of the *autos* indicated in Section I of this Coverage Form as covered *autos*, including the following coverages, if provided by endorsement:

- a. Personal injury liability coverage;
- b. Personal and advertising injury liability coverage;
- c. Host liquor liability coverage;
- d. Fire legal liability coverage;
- e. Incidental medical malpractice liability coverage;
- f. Nonowned watercraft coverage;
- g. Broad form products coverage.

Damages payable under the Each Accident Limit of Insurance - Garage Operations - Other Than Covered Autos are not payable under the Each Accident Limit of Insurance - Garage Operations - Covered Autos.

Subject to the above, the most we will pay for all damages resulting from all *bodily injury* and *property damage* resulting from any one accident is the Each Accident Limit of Insurance - Garage Operations - Other Than Covered Autos for Liability Coverage shown in the Declarations.

All *bodily injury* and *property damage* resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one accident.

The Aggregate Limit of Insurance - Garage Operations - Other Than Covered Autos applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Aggregate Limit of Insurance - Garage Operations - Other Than Covered Autos.

### **2. Limit of Insurance - Garage Operations - Covered Autos**

For *accidents* resulting from *garage operations* involving the ownership, maintenance or use of covered *autos*, the following applies:

Regardless of the number of covered *autos*, *insureds*, premiums paid, claims made or vehicles involved in the *accident*, the most we will pay for the total of all damages and covered pollution cost or expense combined, resulting from any one accident involving a covered *auto* is the Each Accident Limit of Insurance - Garage Operations - Covered Autos for Liability Coverage shown in the Declarations.

Damages and covered pollution cost or expense payable under the Each Accident Limit of Insurance - Garage Operations - Covered Autos are not payable under the Each Accident Limit of Insurance - Garage Operations - Other Than Covered Autos.

All *bodily injury*, *property damage* and covered pollution cost or expense resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one accident.

No one will be entitled to receive duplicate payments for the same elements of loss under this Coverage Form and any Medical Payments Coverage endorsement, Uninsur-

ed Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

#### D. DEDUCTIBLE

We will deduct \$100 from the damages in any

accident resulting from property damage to an auto as a result of work you performed on that auto.

### A. COVERAGE

1. We will pay all sums the *insured* legally must pay as damages for loss to a *customer's auto* or *customer's auto* equipment left in the *insured's* care while the *insured* is attending, servicing, repairing, parking or storing it in your garage operations under:

#### a. Comprehensive Coverage

From any cause except:

- (1) The *customer's auto*'s collision with another object; or
- (2) The *customer's auto*'s overturn.

#### b. Specified Causes of Loss Coverage

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft; or
- (3) Mischief or vandalism.

#### c. Collision Coverage

Caused by:

- (1) The *customer's auto*'s collision with another object; or
- (2) The *customer's auto*'s overturn.

2. We have the right and duty to defend any *insured* against a *suit* asking for these damages. However, we have no duty to defend any *insured* against a *suit* seeking damages for any loss to which this insurance does not apply. We may investigate and settle any claim or *suit* as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

#### 3. Who Is an Insured

The following are *insureds* for loss to *customer's autos* and *customer's auto* equipment:

- a. You.
- b. Your partners (if you are a partnership), members (if you are a limited liability company), employees, directors or shareholders while acting within the scope of their duties as such.

#### 4. Coverage Extensions

##### Supplementary Payments

In addition to the Limit of Insurance, we will pay for the *insured*:

- a. All expenses we incur.
- b. The cost of bonds to release attachments in any *suit* against the *insured* we defend, but only for bond amounts within our Limit of Insurance.
- c. All reasonable expenses incurred by the *insured* at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- d. All costs taxed against the *insured* in any *suit* against the *insured* we defend.
- e. All interest on the full amount of any judgment that accrues after entry of the judgment in any *suit* against the *insured* we defend; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

### B. EXCLUSIONS

1. This insurance does not apply to any of the following:

#### a. Contractual Obligations

Liability resulting from any agreement by which the *insured* accepts responsibility for loss.

#### b. Theft

Loss due to theft or conversion caused in any way by you, your employees or by your shareholders.

#### c. Defective Parts

Defective parts or materials.

#### d. Faulty Work

Faulty work you performed.

2. We will not pay for loss to any of the following:

#### a. Tape decks or other sound reproducing equipment unless permanently installed in a *customer's auto*.

#### b. Tapes, records or other sound reproducing devices designed for use with sound reproducing equipment.

- c. Sound receiving equipment designed for use as a citizens' band radio, two-way mobile radio or telephone or scanning monitor receiver, including its antennas and other accessories, unless permanently installed in the dash or console opening normally used by the customer's auto manufacturer for the installation of a radio.
- d. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.

#### C. LIMIT OF INSURANCE AND DEDUCTIBLE

1. Regardless of the number of customer's autos, insureds, premiums paid, claims made or suits brought, the most we will pay for each loss at each location is the

Garagekeepers Coverage Limit of Insurance shown in the Declarations for that location minus the applicable deductibles for loss caused by collision; and

- a. Theft or mischief or vandalism; or
  - b. All Perils.
2. The maximum deductible stated in the Declarations for Garagekeepers Coverage Comprehensive or Specified Causes of Loss Coverage is the most that will be deducted for all loss in any one event caused by:
    - a. Theft or mischief or vandalism; or
    - b. All Perils.
  3. Sometimes to settle a claim or suit, we may pay all or any part of the deductible. If this happens you must reimburse us for the deductible or that portion of the deductible that we paid.

### SECTION IV - PHYSICAL DAMAGE COVERAGE

#### A. COVERAGE

1. We will pay for loss to a covered auto or its equipment under:

##### a. Comprehensive Coverage

From any cause except:

- (1) The covered auto's collision with another object; or
- (2) The covered auto's overturn.

##### b. Specified Causes of Loss Coverage

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or
- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered auto.

##### c. Collision Coverage

Caused by:

- (1) The covered auto's collision with another object; or
- (2) The covered auto's overturn.

#### 2. Towing - Nondealers Only

If your business is shown in the Declarations as something other than an auto dealership, we will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered auto of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

#### 3. Glass Breakage - Hitting a Bird or Animal - Falling Objects or Missiles

If you carry Comprehensive Coverage for the damaged covered auto, we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. Loss caused by hitting a bird or animal; and
- c. Loss caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered auto's collision or overturn considered a loss under Collision Coverage.

#### 4. Coverage Extension

##### a. Transportation Expenses

If your business is shown in the Declarations as something other than an auto dealership, we will pay up to \$20 per day to a maximum of \$600 for temporary transportation expense incurred by you because of the total theft of a covered auto of the private passenger type. We will pay only for those covered autos for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered auto is returned to use or we pay for its loss.

b. **Loss of Use Expenses**

For Hired Auto Physical Damage, we will pay expenses for which an *insured* becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered auto;
- (2) Specified Causes of Loss only if the Declarations indicate that Specified Causes of Loss Coverage is provided for any covered auto; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered auto.

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

**B. EXCLUSIONS**

1. We will not pay for *loss* caused by or resulting from any of the following. Such *loss* is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the *loss*.

a. **Nuclear Hazard**

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. **War or Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for *loss* to any of the following:

- a. Any covered auto leased or rented to others unless rented to one of your customers while their *auto* is left with you for service or repair.
- b. Any covered *auto* while used in any professional or organized racing or de-

molition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for *loss* to any covered *auto* while that covered *auto* is being prepared for such contest or activity.

- c. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
- d. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.
- e. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
- f. Any accessories used with the electronic equipment described in paragraph e above.

Exclusions 2e and 2f do not apply to:

- a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered *auto* at the time of the *loss* or such equipment is removable from a housing unit which is permanently installed in the covered *auto* at the time of the *loss*, and such equipment is designed to be solely operated by use of the power from the *auto*'s electrical system, in or upon the covered *auto*; or
- b. Any other electronic equipment that is:
  - (1) Necessary for the normal operation of the covered *auto* or the monitoring of the covered *auto*'s operating system; or
  - (2) An integral part of the same unit housing any sound reproducing equipment described in a above and permanently installed in the opening of the dash or console of the covered *auto* normally used by the manufacturer for installation of a radio.

**3. False Pretense**

We will not pay for *loss* to a covered *auto* caused by or resulting from:

- a. Someone causing you to voluntarily part with it by trick or scheme or under false pretenses; or
- b. Your acquiring an *auto* from a seller

who did not have legal title.

4. If your business is shown in the Declarations as an auto dealership, we will not pay for:
  - a. Your expected profit, including loss of market value or resale value.
  - b. Loss to any covered *auto* displayed or stored at any location not shown in Item Three of the Declarations if the loss occurs more than 45 days after your use of the location begins.
  - c. Under the Collision Coverage, loss to any covered *auto* while being driven or transported from the point of purchase or distribution to its destination if such points are more than 50 road miles apart.
  - d. Under the Specified Causes of Loss Coverage, loss to any covered *auto* caused by or resulting from the collision or upset of any vehicle transporting it.
5. We will not pay for loss to a covered *auto* due to *diminution of value*.

#### 6. Other Exclusions

We will not pay for loss caused by or resulting from any of the following unless caused by other loss that is covered by this insurance:

- a. Wear and tear, freezing, mechanical or electrical breakdown; or
- b. Blowouts, punctures or other road damage to tires.

### C. LIMITS OF INSURANCE

1. The most we will pay for loss to any one covered *auto* is the lesser of:
  - a. The actual cash value of the damaged or stolen property as of the time of loss; or
  - b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.
2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.
3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.
4. For those businesses shown in the Declarations as *auto* dealerships, the following provisions also apply:
  - a. Regardless of the number of covered *autos* involved in the loss, the most we will pay for all loss at any one location is the amount shown in the Auto Dealers Supplementary Schedule for that location. Regardless of the number of covered *autos* involved in the loss, the

most we will pay for all loss in transit is the amount shown in the Auto Dealers Supplementary Schedule for loss in transit.

#### b. Quarterly or Monthly Reporting Premium Basis

If, on the date of your last report, the actual value of the covered *autos* at the loss location exceeds what you last reported, when a loss occurs we will pay only a percentage of what we would otherwise be obligated to pay. We will determine this percentage by dividing your total reported value for the involved location by the value you actually had on the date of your last report.

If the first report due is delinquent on the date of loss, the most we will pay will not exceed 75% of the Limit of Insurance shown in the Auto Dealers Supplementary Schedule for the applicable location.

#### c. Nonreporting Premium Basis

If, when loss occurs, the total value of your covered *autos* exceeds the Limit of Insurance shown in the Declarations, we will pay only a percentage of what we would otherwise be obligated to pay. We will determine this percentage by dividing the limit by the total values you actually had when loss occurred.

### D. DEDUCTIBLE

For each covered *auto*, our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations provided that:

#### 1. Auto Dealers Only Special Deductible Provisions

If your business is shown in the Declarations as an *auto* dealership:

- a. The Comprehensive or Specified Causes of Loss Coverage deductible applies only to loss caused by:
  - (1) Theft or mischief or vandalism; or
  - (2) All Perils.
- b. Regardless of the number of covered *autos* damaged or stolen, the per loss deductible for Comprehensive or Specified Causes of Loss Coverage shown in the Declarations is the maximum deductible applicable for all loss in any one event caused by:
  - (1) Theft or mischief or vandalism; or
  - (2) All Perils.

**2. Nondealers Only Special Deductible Provisions**

If your business is shown in the Declarations as something other than an *auto*

dealership, the Comprehensive Coverage deductible does not apply to *loss* caused by fire or lightning.

## **SECTION V - GARAGE CONDITIONS**

The following conditions apply in addition to the Common Policy Conditions:

### **A. LOSS CONDITIONS**

**1. Appraisal for Physical Damage Loss**

If you and we disagree on the amount of *loss*, either may demand an appraisal of the *loss*. In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire.

The appraisers will state separately the actual cash value and amount of *loss*. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

**2. Duties in the Event of Accident, Claim, Suit or Loss**

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

a. In the event of *accident*, *claim*, *suit* or *loss*, you must give us or our authorized representative prompt notice of the *accident* or *loss*. Include:

- (1) How, when and where the *accident* or *loss* occurred;
- (2) The *insured's* name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

b. Additionally, you and any other involved *insured* must:

- (1) Assume no obligation, make no payment or incur no expense without our consent, except at the *insured's* own cost.
- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or *suit*.
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the *suit*.

(4) Authorize us to obtain medical records or other pertinent information.

(5) Submit to examination at our expense, by physicians of our choice, as often as we reasonably require,

c. If there is *loss* to a covered *auto* or its equipment you must also do the following:

- (1) Promptly notify the police if the covered *auto* or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered *auto* from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
- (3) Permit us to inspect the covered *auto* and records proving the *loss* before its repair or disposition.
- (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

**3. Legal Action Against Us**

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Liability Coverage, we agree in writing that the *insured* has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the *insured's* liability.

**4. Loss Payment - Physical Damage Coverages**

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the *auto* from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the *loss*, our payment will include the applicable sales tax for the damaged or stolen property.

**5. Transfer of Rights of Recovery Against Others to Us**

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after *accident* or loss to impair them.

**B. GENERAL CONDITIONS**

**1. Bankruptcy**

Bankruptcy or insolvency of the *insured* or the *insured's* estate will not relieve us of any obligations under this Coverage Form.

**2. Concealment, Misrepresentation or Fraud**

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other *insured*, at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This Coverage Form;
- b. The covered *auto*;
- c. Your interest in the covered *auto*; or
- d. A claim under this Coverage Form.

**3. Liberalization**

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

**4. No Benefit to Bailee - Physical Damage Coverages**

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

**5. Other Insurance**

a. For any covered *auto* you own, this Coverage Form provides primary insurance. For any covered *auto* you do not own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered *auto* which is a *trailer* is connected to another vehicle, the Liability Coverage this Coverage Form provides for the *trailer* is:

- (1) Excess while it is connected to a motor vehicle you do not own;
- (2) Primary while it is connected to a covered *auto* you own.

b. For Hired Auto Physical Damage Coverage, any covered *auto* you lease,

hire, rent or borrow is deemed to be a covered *auto* you own. However, any *auto* that is leased, hired, rented or borrowed with a driver is not a covered *auto*.

- c. Regardless of the provisions of paragraph a above, this Coverage Form's Liability Coverage is primary for any liability assumed under an *insured contract*.
- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

**6. Premium Audit**

a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the First Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the First Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

**7. Policy Period, Coverage Territory**

a. Under this Coverage Form, we cover:

- (1) *Bodily injury, property damage and losses* occurring; and
- (2) *Covered pollution cost or expense* arising out of *accidents* occurring during the policy period shown in the Declarations and within the coverage territory.

b. The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and
- (5) Anywhere in the world if:

- (a) A covered *auto* of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and
- (b) The *insured's* responsibility to pay damages is determined in a *suit* on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.
- c. We also cover *bodily injury, property damage, covered pollution cost or expense* and losses while a covered *auto* is being transported between any of these places.
- d. The coverage territory is extended to anywhere in the world if the *bodily injury or property damage* is caused by one of your *products* which is sold for use in the United States of America, its territories or possessions, Puerto Rico or Canada. The original *suit* for damages resulting from such *bodily injury or property damage* must be brought in one of these places.
- e. The coverage territory is extended to anywhere in the world if:
  - (1) A covered *auto* of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and
  - (2) The *insured's* responsibility to pay damages is determined in a *suit* on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

#### **8. Two or More Coverage Forms or Policies Issued by Us**

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same *accident*, the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

### **SECTION VI - DEFINITIONS**

- A. "*Accident*" includes continuous or repeated exposure to the same conditions resulting in *bodily injury or property damage*.
- B. "*Auto*" means a land motor vehicle, *trailer* or *semitrailer*.
- C. "*Bodily injury*" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.
- D. "*Covered pollution cost or expense*" means any cost or expense arising out of:
  - 1. Any request, demand, order or statutory or regulatory requirement; or
  - 2. Any claim or *suit* by or on behalf of a governmental authority demanding

that the *insured* or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of *pollutants*.

*Covered pollution cost or expense* does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants*:

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by,

handled, or handled for movement into, onto or from the covered *auto*;

- (2) Otherwise in the course of transit by or on behalf of the *insured*;
- (3) Being stored, disposed of, treated or processed in or upon the covered *auto*; or
- b. Before the *pollutants* or any property in which the *pollutants* are contained are moved from the place where they are accepted by the *insured* for movement into or onto the covered *auto*; or
- c. After the *pollutants* or any property in which the *pollutants* are contained are moved from the covered *auto* to the place where they are finally delivered, disposed of or abandoned by the *insured*.

Paragraph a above does not apply to fuels, lubricants, fluids, exhaust gases or other similar *pollutants* that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered *auto* or its parts, if the *pollutants* escape, seep, migrate, or are discharged, dispersed or released directly from an *auto* part designed by its manufacturer to hold, store, receive or dispose of such *pollutants*.

Paragraphs b and c above do not apply to accidents that occur away from premises owned by or rented to an insured with respect to pollutants not in or upon a covered auto if:

- (1) The pollutants or any property in which the pollutants are contained are upset, overturned or damaged as a result of the maintenance or use of a covered auto; and
  - (2) The discharge, dispersal, seepage, migration, release or escape of the pollutants is caused directly by such upset, overturn or damage.
- E. "Customer's auto" means a customer's land motor vehicle, trailer or semitrailer. It also includes any customer's auto while left with you for service, repair, storage or safekeeping. Customers include employees, and members of their households who pay for services performed.
- F. "Diminution of value" means the actual or perceived loss in market value or resale value which results from a direct and accidental loss.
- G. "Employee" includes a leased worker. Employee does not include a temporary worker.
- H. "Garage operations" mean the ownership, maintenance or use of locations for garage business and that portion of the roads or other accesses that adjoin these locations. Garage operations include the ownership, maintenance or use of the autos indicated in Section I of this Coverage Form as covered autos. Garage operations also include all operations necessary or incidental to a garage business.
- I. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or suit is brought.
- J. "Insured contract" means:
  1. A lease of premises;
  2. A sidetrack agreement;
  3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad.
  4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  5. That part of any other contract or agreement pertaining to your garage business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for bodily injury or property damage to a third party or

organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

6. An elevator maintenance agreement;
7. That part of any contract or agreement entered into, as part of your garage business, pertaining to the rental or lease, by you or any of your employees, of any auto. However, such contract or agreement shall not be considered an insured contract to the extent that it obligates you or any of your employees to pay property damage to any auto rented or leased by you or any of your employees.

An insured contract does not include that part of any contract or agreement:

1. That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
    - a. Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
    - b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.
  2. That indemnifies any person or organization for damage by fire to premises rented or loaned to you;
  3. That pertains to the loan, lease or rental of an auto to you or any of your employees, if the auto is loaned, leased or rented with a driver;
  4. That holds a person or organization engaged in the business of transporting property by auto for hire harmless for your use of a covered auto over a route or territory that person or organization is authorized to serve by public authority; or
  5. That indemnifies a railroad for bodily injury or property damage arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing.
- K. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. Leased worker does not include a temporary worker.
- L. "Loss" means direct and accidental loss or damage. But for Garagekeepers Coverage only, loss also includes any resulting loss of use.
- M. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be re-

cycled, reconditioned or reclaimed.

N. "Products" includes:

1. The goods or products you made or sold in a garage business; and
2. The providing of or failure to provide warnings or instructions.

O. "*Property damage*" means damage to or loss of use of tangible property.

P. "Suit" means a civil proceeding in which:

1. Damages because of *bodily injury* or *property damage*; or
2. A *covered pollution cost or expense*, to which this insurance applies are alleged.

*Suit* includes:

1. An arbitration proceeding in which such damages or *covered pollution costs or expenses* are claimed and to which the *in-*

*sured* must submit or does submit with our consent; or

2. Any other alternative dispute resolution proceeding in which such damages or *covered pollution costs or expenses* are claimed and to which the *insured* submits with our consent.

Q. "*Temporary worker*" means a person who is furnished to you to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.

R. "Trailer" includes semitrailer.

S. "*Work you performed*" includes:

1. Work that someone performed on your behalf; and
2. The providing of or failure to provide warnings or instructions.

## ILLINOIS UNINSURED AND UNDERINSURED MOTORISTS COVERAGES

CA-7162(3-04)

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GARAGE COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

For a covered auto licensed or principally garaged in, or garage operations conducted in, Illinois:

### 1. COVERAGE

#### a. Uninsured Motorists Coverage

We will pay all sums the *insured* is legally entitled to recover as compensatory damages from the owner or driver of an *uninsured motor vehicle*. The damages must result from:

- (1) *Bodily injury* sustained by the *insured* caused by an *accident*. This coverage applies only if the Declarations indicate that Uninsured Motorists Bodily Injury Coverage applies; or
- (2) *Property damage* caused by an *accident* arising out of actual physical contact with a covered *auto*. This coverage applies only if the Declarations indicate that Uninsured Motorists Property Damage Coverage applies.

The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the *uninsured motor vehicle*.

Any judgment for damages arising out of a *suit* brought without our written consent is not binding on us.

#### b. Underinsured Motorists Coverage

We will pay all sums the *insured* is legally entitled to recover as compensatory damages from the owner or driver of an *underinsured motor vehicle*. The damages must result from *bodily injury* sustained by the *insured* caused by an *accident*. The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the *underinsured motor vehicle*.

We will pay only after all liability bonds or policies have been exhausted by payment of judgments or settlements, unless:

- (1) We have been given prompt written notice of a *tentative settlement* and decide to advance payment to the *insured* in an amount equal to that *tentative settlement* within 30 days after receipt of notification; or

- (2) We and an *insured* have reached a *settlement agreement*.

Any judgment for damages arising out of a *suit* brought without written notice to us is not binding on us.

### 2. WHO IS AN INSURED

If the Named Insured is designated in the Declarations as:

- a. An individual, then the following are *insureds*:
  - (1) The Named Insured and any *family members*.
  - (2) Anyone else *occupying* a covered *auto* or a temporary substitute for a covered *auto*. The covered *auto* must be out of service because of its breakdown, repair, servicing, loss or destruction.
  - (3) Anyone for damages he or she is entitled to recover because of *bodily injury* sustained by another *insured*.
- b. A partnership, limited liability company, corporation or any other form of organization, then the following are *insureds*:
  - (1) Anyone *occupying* a covered *auto* or a temporary substitute for a covered *auto*. The covered *auto* must be out of service because of its breakdown, repair, servicing, loss or destruction.
  - (2) Anyone for damages he or she is entitled to recover because of *bodily injury* sustained by another *insured*.

### 3. EXCLUSIONS

This insurance does not apply to any of the following:

- a. Any claim settled with the owner or driver of an *uninsured motor vehicle* without our consent.
- b. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation law, disability benefits law or similar law.
- c. *Bodily injury* sustained by:
  - (1) An individual Named Insured while *occupying* any vehicle owned by that Named Insured that is not a covered *auto* for Uninsured Motorists Coverage under this Coverage Form;
  - (2) Any *family member* while *occupying* any vehicle owned by that *family member* that is not a covered *auto* for Uninsured Motorists Coverage under this Coverage Form; or
  - (3) Any *family member* while *occupying*

any vehicle owned by the Named Insured that is insured for Uninsured Motorists Coverage on a primary basis under any other Coverage Form or policy.

d. *Bodily injury* sustained by:

- (1) An individual Named Insured while occupying any vehicle owned by that Named Insured that is not a covered auto for Underinsured Motorists Coverage under this Coverage Form;
- (2) Any family member while occupying any vehicle owned by that family member that is not a covered auto for Underinsured Motorists Coverage under this Coverage Form; or
- (3) Any family member while occupying any vehicle owned by the Named Insured that is insured for Underinsured Motorists Coverage on a primary basis under any other Coverage Form or policy.

e. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.

f. Punitive or exemplary damages.

g. The first \$250 of the amount of property damage to a covered auto as a result of any one accident.

h. Property damage to any motor vehicle owned by the insured for which the insured purchased collision coverage under this policy or any other policy.

i. Property damage if the owner or driver of the uninsured motor vehicle cannot be identified.

#### 4. LIMIT OF INSURANCE

##### a. Uninsured Motorists Coverage

(1) The Uninsured Motorists Bodily Injury Coverage Limit of Insurance shown in the Declarations applies regardless of the number of covered autos, insureds, premiums paid, claims made or vehicles involved in the accident.

(a) The "each person" Limit of Insurance is the most we will pay for all damages resulting from *bodily injury* to any one person caused by any one accident, including all damages claimed by any person or organization for care and loss of services or death resulting from the *bodily injury*.

(b) Subject to the "each person" Limit of Insurance, the "each accident" Limit of Insurance is the most we will pay for all damages resulting from *bodily injury* caused by any one accident.

(c) No one will be entitled to receive duplicate payments for the same elements of loss under this Coverage Form and any Liability Coverage Form, Medical Payments Coverage Endorsement or Underinsured Motorists Coverage Endorsement attached to this Coverage Part.

We will not make a duplicate payment under this Coverage for any element of loss for which payment has been made by or for anyone who is legally responsible.

We will not pay for any element of loss if a person is entitled to receive payment for the same element of loss under any workers' compensation, disability benefits or similar law.

(2) The Uninsured Motorists Property Damage Coverage Limit of Insurance shown in the Declarations applies regardless of the number of covered autos, premiums paid, claims made or vehicles involved in the accident.

The most we will pay for all damages resulting from any one accident will be the lesser of \$15,000 or the actual cash value of the damaged auto at the time of the accident.

Any amount payable under this coverage will be reduced by all sums paid by or for anyone who is legally responsible.

##### b. Underinsured Motorists Coverage

The Underinsured Motorists Coverage Limit of Insurance shown in the Declarations applies regardless of the number of covered autos, insureds, premiums paid, claims made or vehicles involved in the accident.

(1) The "each person" Limit of Insurance is the most we will pay for all damages resulting from *bodily injury* to any one person caused by any one accident, including all damages claimed by any person or organization for care, loss of services or death resulting from the *bodily injury*.

(2) Subject to the "each person" Limit of Insurance, the "each accident" Limit of Insurance is the most we will pay for all damages resulting from *bodily injury* caused by any one accident.

(3) Except in the event of a settlement agreement, the Limit of Insurance for this coverage shall be reduced by all sums paid or payable.

- (a) By or for anyone who is legally responsible, including all sums paid under this Coverage Form's Liability Coverage.
  - (b) Under any workers' compensation, disability benefits or similar law. However, the Limit of Insurance for this coverage shall not be reduced by any sums paid or payable under Social Security disability benefits.
  - (c) Under any automobile medical payments coverage.
- (4) In the event of a *settlement agreement*, the maximum Limit of Insurance for this coverage shall be the amount by which the "each person" and "each accident" Limits of Insurance for this coverage exceed the respective limits of *bodily injury* liability bonds or policies applicable to the owner or driver of the *underinsured motor vehicle*.
- (5) No one will be entitled to receive duplicate payments for the same elements of loss under this Coverage Form and any Liability Coverage Form.

## 5. CHANGES IN CONDITIONS

- a. The Conditions are changed for Uninsured Motorists Bodily Injury Coverage as follows:
- (1) Other Insurance in the Business Auto and Garage Coverage Forms and Other Insurance - Primary and Excess Insurance Provisions in the Truckers Endorsement and Motor Carrier Coverage Form are replaced by the following:  
If there is other applicable insurance available under one or more policies or provisions of coverage:
    - (a) The maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any coverage form or policy providing coverage on either a primary or excess basis.
    - (b) Any insurance we provide with respect to a vehicle the Named Insured does not own shall be excess over any other collectible *bodily injury* uninsured motorists insurance providing coverage on a primary basis.
    - (c) If the coverage under this Coverage Form is provided:
      - (i) On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a

- primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.
  - (ii) On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.
- (2) Duties in the Event of Accident, Claim, Suit or Loss is changed by adding the following:
- (a) Promptly notify the police if a hit-and-run driver is involved; and
  - (b) Promptly send us copies of the legal papers if a suit is brought.
- (3) Legal Action Against Us is replaced by the following:
- (a) No one may bring legal action against us under this Coverage Form until there has been full compliance with all the terms of this Coverage Form.
  - (b) Any legal action against us must be brought within two years after the date of the *accident*. However, this Paragraph (3)(b) does not apply to an *insured* if, within two years after the date of the *accident*, arbitration proceedings have commenced in accordance with the provisions of the Coverage Form.
- (4) Transfer of Rights of Recovery Against Others to Us does not apply.
- (5) The following Conditions are added:  
If we make any payment and the *insured* recovers from another party, the *insured* shall hold the proceeds in trust for us and pay us back the amount we have paid.

## ARBITRATION

If we and an *insured* disagree whether the *insured* is legally entitled to recover damages from the owner or driver of an *uninsured motor vehicle* or do not agree as to the amount of damages, then the disagreement will be settled in accordance with the rules of the American Arbitration Association. However, if the *insured* requests, we and the *insured* will each select an arbitrator. The two arbitrators will select a third, if the

arbitrators are not selected within 45 days of the *insured's* request, either party may request that arbitration be submitted to the American Arbitration Association. A decision agreed to by two of the arbitrators will be binding for the amount of damages not exceeding the lesser of either:

- (1) \$50,000 for *bodily injury* to any one person/\$100,000 for *bodily injury* to two or more persons caused by any one *accident*; or
- (2) The Limit of Uninsured Motorists Insurance shown in the Declarations.

We will bear all the expenses of the arbitration except when the *insured's* recovery exceeds the minimum limit specified in the Illinois Safety Responsibility Law. If this occurs, the *insured* will be responsible for payment of his or her expenses and an equal share of the expenses of the third arbitrator up to the amount by which the *insured's* recovery exceeds the statutory minimum.

Unless both parties agree otherwise, arbitration will take place in the county in which the *insured* lives. Local rules of law as to arbitration procedure and evidence will apply.

b. The Conditions are changed for Uninsured Motorists Property Damage Coverage as follows:

- (1) Other Insurance in the Business Auto and Garage Coverage Forms and Other Insurance - Primary and Excess Insurance Provisions in the Truckers Endorsement and Motor Carrier Coverage Form are replaced by the following:
  - If there is other applicable insurance available under one or more policies or provisions of coverage:
    - (a) The maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any Coverage Form or policy providing coverage on either a primary or excess basis.
    - (b) Any insurance we provide with respect to a vehicle the Named Insured does not own shall be excess over any other collectible property damage uninsured motorists insurance providing coverage on a primary basis.
    - (c) If the coverage under this Coverage Form is provided:

- (i) On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.
  - (ii) On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.
- (2) Duties in the Event of Accident, Claim, Suit or Loss is changed by adding the following:
    - (a) Promptly send us copies of the legal papers if a *suit* is brought; and
    - (b) Provide us with the name and address of the owner of the *uninsured motor vehicle* or a registration number and description of such vehicle, or any other available information to establish that there is no applicable motor vehicle property damage liability coverage.
  - (3) Legal Action Against Us is replaced by the following:
    - (a) No one may bring legal action against us under this Coverage Form until there has been full compliance with all the terms of this Coverage Form.
    - (b) Any legal action against us must be brought within two years after the date of the *accident*. However, this Paragraph (3)(b) does not apply to an *insured* if, within two years after the date of the *accident*, arbitration proceedings have commenced in accordance with the provisions of the Coverage Form.
  - (4) Transfer of Rights of Recovery Against Others to Us does not apply.
  - (5) The following Conditions are added:

**REIMBURSEMENT AND TRUST**

If we make any payment and the *insured* recovers from another party, the *insured* shall hold the proceeds in trust for us and pay us back the amount we have paid.

## ARBITRATION

If we and an *insured* disagree whether the *insured* is legally entitled to recover damages under this coverage or do not agree as to the amount of damages that are recoverable by that *insured*, then the matter may be arbitrated. The *insured* may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If such arbitrators are not selected within 45 days, either party may request that the arbitration be submitted to the American Arbitration Association. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the *insured* lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

c. The Conditions are changed for Underinsured Motorists Coverage as follows:

- (1) Other Insurance in the Business Auto and Garage Coverage Forms and Other Insurance - Primary and Excess Insurance Provisions in the Truckers Endorsement and Motor Carrier Coverage Form are replaced by the following:

If there is other applicable insurance available under one or more policies or provisions of coverage:

- (a) The maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any Coverage Form or policy providing coverage on either a primary or excess basis.
- (b) Any insurance we provide with respect to a vehicle the Named Insured does not own shall be excess over any other collectible underinsured motorists insurance providing coverage on a primary basis.
- (c) If the coverage under this Coverage Form is provided:
- (i) On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.

(ii) On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.

(2) Duties in the Event of Accident, Claim, Suit or Loss is changed by adding the following:

- (a) Give us written notice of a *tentative settlement* and allow us to advance payment in an amount equal to that settlement within 30 days after receipt of notification to preserve our rights against the owner or driver of the *underinsured motor vehicle*.
- (b) File *suit* against the owner or driver of the *underinsured motor vehicle* prior to the conclusion of a *settlement agreement*. Such *suit* cannot be abandoned or settled without giving us written notice of a *tentative settlement* and allowing us 30 days to advance payment in an amount equal to that settlement to preserve our rights against the owner or driver of the *underinsured motor vehicle*.
- (c) Promptly send us copies of the legal papers if a *suit* is brought.

(3) Legal Action Against Us is replaced by the following:

- (a) No one may bring legal action against us under this Coverage Form until there has been full compliance with all the terms of this Coverage Form.
- (b) Any legal action against us under this Coverage Form must be brought within two years after the date of the *accident*. However, this Paragraph (3)(b) does not apply if, within two years after the date of the *accident*:
- (i) Arbitration proceedings have commenced in accordance with the provisions of this Coverage Form; or
- (ii) The *insured* has filed an action for *bodily injury* against the owner or operator of an *underinsured motor vehicle*, and such action is:
- (a) filed in a court of competent jurisdiction; and

- (b) not barred by the applicable state statute of limitations.
- (4) The following is added to Transfer of Rights of Recovery Against Others to Us:
- Transfer of Rights of Recovery Against Others to Us does not apply to damages caused by an *accident* with an *underinsured motor vehicle* if we:
- Have been given written notice of a *tentative settlement* between an *insured* and the insurer of an *underinsured motor vehicle*; and
  - Fail to advance payment to the *insured* in an amount equal to the *tentative settlement* within 30 days after receipt of the notice.

If we advance payment to the *insured* in an amount equal to the *tentative settlement* within 30 days after receipt of the notice:

- That payment will be separate from any amount the *insured* is entitled to recover under the provisions of Underinsured Motorists Coverage; and
- We will also have a right to recover the advanced payment.

However, in the event of a *settlement agreement*, we shall be entitled to recover only for amounts which exceed the limit of bodily injury liability bonds or policies applicable to the owner or driver of the *underinsured motor vehicle*.

- (5) The following Conditions are added:

#### REIMBURSEMENT AND TRUST

If we make any payment and the *insured* recovers from another party, the *insured* shall hold the proceeds in trust for us and pay us back the amount we have paid.

However, in the event of a *settlement agreement*, we shall be entitled to recover only for amounts which exceed the limit of bodily injury liability bonds or policies applicable to the owner or operator of the *underinsured motor vehicle*.

#### ARBITRATION

If we and an *insured* disagree whether the *insured* is legally entitled to recover damages from the owner or driver of an *underinsured motor vehicle* or do not agree as to the amount of damages that are recoverable by that *insured*, then the matter may be arbitrated. However, disputes concerning coverage under Underinsured Motorists Coverage

may not be arbitrated. Either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the *insured* lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

#### 6. ADDITIONAL DEFINITIONS

As used in this endorsement:

- "*Family member*" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
- "*Occupying*" means in, upon or getting in, on, out or off.
- "*Property damage*" means injury to or destruction of a covered *auto*. However, *property damage* does not include loss of use or damage to personal property contained in a covered *auto*.
- "*Settlement agreement*" means we and an *insured* agree that the *insured* is legally entitled to recover, from the owner or driver of the *underinsured motor vehicle*, damages for *bodily injury* and, without arbitration, agree also as to the amount of damages. Such agreement is final and binding regardless of any subsequent judgment or settlement reached by the *insured* with the owner or driver of the *underinsured motor vehicle*.
- "*Tentative settlement*" means an offer from the owner or driver of the *underinsured motor vehicle* to compensate an *insured* for damages incurred because of *bodily injury* sustained in an *accident* involving an *underinsured motor vehicle*.
- (1) With respect to Uninsured Motorists Bodily Injury Coverage, "*uninsured motor vehicle*" means a land motor vehicle or trailer:
  - For which no liability bond or policy at the time of an *accident* provides at least the amounts required by the applicable law where a covered *auto* is principally garaged;
  - For which an insuring or bonding company denies coverage or is or becomes insolvent; or

- (c) Which is a hit-and-run vehicle and neither the driver nor owner can be identified. The vehicle must hit, or cause an object to hit, an *insured*, a covered *auto* or a vehicle an *insured* is *occupying*. If there is no physical contact with the hit-and-run vehicle, the facts of the accident must be proved.
- (2) With respect to Uninsured Motorists Property Damage Coverage, "uninsured motor vehicle" means a land motor vehicle or trailer:
  - (a) For which no liability bond or policy providing coverage for property damage applies at the time of the accident;
  - (b) For which no liability bond or policy at the time of an accident provides at least the amount required for property damage liability covered by the Illinois Safety Responsibility Law; or
  - (c) For which an insuring or bonding company denies coverage or is or becomes insolvent.
- (3) However, with respect to both Uninsured Motorists Bodily Injury and Uninsured Motorists Property Damage Coverages, uninsured motor vehicle does not include any vehicle:
  - (a) Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law;
  - (b) Owned by a governmental unit or agency; or
  - (c) Designed for use mainly off public roads while not on public roads.
- g. "Underinsured motor vehicle" means a land motor vehicle or trailer for which the sum of all bodily injury liability bonds or insurance policies at the time of the accident provides at least the amounts required by the applicable law where a covered auto is principally garaged, but their limits:
  - (1) Are less than the limits of this coverage; or
  - (2) Have been reduced by payments to persons, other than an insured, injured in the accident, to less than the limits of this coverage.

However, underinsured motor vehicle does not include any vehicle:

  - (1) Owned or operated by any self-insurer under any applicable motor vehicle law;
  - (2) Owned by a governmental unit or agency;
  - (3) Designed for use mainly off public roads while not on public roads; or
  - (4) Which is an uninsured motor vehicle.

## TRUTH IN LENDING

This endorsement modifies insurance provided under the following:

### GARAGE COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

It is agreed that:

1. Such insurance as is afforded under the Garage Coverage Form for Liability Coverage applies to damages solely due to Section 130, Civil Liability, of Title I (Truth in Lending Act) of the Consumer Credit Protection Act (Public Law 90-321; 82 Stat. 146 et. seq.) because of error or omission in failing to comply with said Act subject to the Limit of Insurance

CA-7096(12-93)

shown in the Schedule for the aggregate total of all payments for damages arising from acts of error or omission committed during the policy period.

2. This extension of coverage does not apply to liability arising out of Section 112, Criminal Liability, of Title I (Truth in Lending Act) of the Consumer Credit Protection Act (Public Law 90-321; 82 Stat. 146 et. seq.).
3. We shall have the right and duty to defend any suit against the insured seeking damages on account of such error or omission, even if any of the allegations of the suit are groundless, false or fraudulent and may make such investigation and settlement of any claim or suit as we deem expedient.

## SCHEDULE

### Limit of Insurance

\$300,000

## BROADENED COVERAGE - GARAGES

CA-2514F(10-03)

This endorsement modifies insurance provided under the following:

### GARAGE COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

## SECTION I - PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE

### 1. COVERAGE

We will pay all sums the *insured* legally must pay as damages because of *personal and advertising injury* caused by an offense arising out of your business, but only if the offense was committed in the coverage territory during the policy period.

We will have the right and duty to defend any *insured* against a *suit* asking for these damages. However, we have no duty to defend any *insured* against a *suit* seeking damages for *personal and advertising injury* to which this insurance does not apply. We may investigate and settle any claim or *suit* as we consider appropriate. Our duty to defend or settle ends when the Personal and Advertising Injury Limit of Insurance has been exhausted by payment of judgments or settlements.

#### a. Who Is an Insured

The following are *insureds*:

- (1) You and your spouse.
- (2) Your partners (if you are partnership) and their spouses, or members (if you are a limited liability company) and their spouses. None of your partners (if you are a partnership) or their spouses, or members (if you are a limited liability company) or their spouses is an *insured* for *personal and advertising injury* resulting from the conduct of any other partnership or limited liability company.
- (3) Your employees, executive officers, directors and stockholders but only while acting within the scope of their duties.

#### b. Coverage Extensions

##### Supplementary Payments

In addition to the Personal Injury and Advertising Injury Limit of Insurance, we will pay for the *insured*:

- (1) All expenses we incur.
- (2) The cost of bonds to release attachments in any *suit* against the *insured* we defend, but only for bond amounts within the Personal Injury and Advertising Injury Limit of Insurance.

(3) All reasonable expenses incurred by the *insured* at our request, including actual loss of earnings up to \$250 a day because of time off from work.

(4) All costs taxed against the *insured* in any *suit* against the *insured* we defend.

(5) All interest on the full amount of any judgment that accrues after entry of the judgment in any *suit* against the *insured* we defend, but our duty to pay interest ends when we have paid, offered to pay, or deposited in court the part of the judgment that is within the Personal Injury and Advertising Injury Limit of Insurance.

#### 2. EXCLUSIONS

- a. This insurance does not apply to *personal and advertising injury*:
  - (1) For which the *insured* has assumed liability under any contract or agreement. But this exclusion does not apply to liability for damages that the *insured* would have in the absence of the contract or agreement.
  - (2) Caused by or at the direction of the *insured* with the knowledge that the act would violate the rights of another and would inflict *personal and advertising injury*.
  - (3) Arising out of oral or written publication of material, if done by or at the direction of the *insured* with knowledge of its falsity.
  - (4) Arising out of oral or written publication of material whose first publication took place before the effective date of this insurance.
  - (5) Arising out of a criminal act committed by or at the direction of the *insured*.
  - (6) Arising out of breach of contract, except an implied contract to use another's advertising idea in your *advertisement*.
  - (7) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your *advertisement*.
  - (8) Arising out of the wrong description of the price of goods, products or services stated in your *advertisement*.
  - (9) Committed by an *insured* whose business is advertising, broadcasting, publishing or telecasting. However, this exclusion does not apply to paragraphs a, b and c of *personal and advertising*

*injury* under the Additional Definitions Section.

(10) To:

- (a) A person arising out of any:
  - (i) Refusal to employ that person;
  - (ii) Termination of that person's employment; or
  - (iii) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (b) Spouse, child, parent, brother or sister of that person as a consequence of *personal injury* to that person at whom any of the employment-related practices described in paragraphs (i), (ii) or (iii) above is directed.

This exclusion applies:

- (a) Whether the insured may be liable as an employer or in any other capacity; and
  - (b) To any obligation to share damages with or repay someone else who must pay damages because of the injury.
- (11) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants* at any time.
- b. This insurance does not apply to any loss, cost or expense arising out of any:
- (1) Request, demand, order or statutory or regulatory requirement that any *insured* or others test for, monitor, cleanup, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of *pollutants*; or
  - (2) Claim or *suit* by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of *pollutants*.
- c. The following is added to paragraph B Exclusions of Section II - Liability Coverage:
- Personal and Advertising Injury**
- Bodily injury* arising out of *personal and advertising injury*.

**3. PERSONAL AND ADVERTISING INJURY LIMIT OF INSURANCE**

The following is added to the Aggregate Limit of Insurance - *Garage Operations - Other Than Covered Autos* provision in Section II - Liability Coverage:

Subject to the Aggregate Limit of Insurance - *Garage Operations - Other Than Covered Autos* and regardless of the number of *insureds*, claims made or *suits* brought or persons or organizations making claims or bringing *suits*, the most we will pay for the sum of all damages because of all *personal and advertising injury* sustained by any one person or organization is the Personal and Advertising Injury Limit of Insurance shown in the Schedule of the Broadened Coverage - Garages Endorsement.

The Each Accident Limit of Insurance - *Garage Operations - Other Than Covered Autos* for Liability Coverage, does not apply to damages we pay because of *personal and advertising injury*.

**4. ADDITIONAL DEFINITIONS**

As used in this endorsement:

- a. "*Personal and advertising injury*" means injury including consequential *bodily injury* arising out of one or more of the following offenses:
  - (1) False arrest, detention or imprisonment;
  - (2) Malicious prosecution;
  - (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - (4) Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - (5) Oral or written publication of material that violates a person's right of privacy;
  - (6) The use of another's advertising idea in your *advertisement*; or
  - (7) Infringing on another's copyright, trade dress or slogan in your *advertisement*.
- b. "*Advertisement*" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters.

## **SECTION II - HOST LIQUOR LIABILITY COVERAGE**

Liability Coverage is changed by adding the following:

We will also pay all sums the *insured* legally must pay as damages because of *bodily injury* or *property damage* arising out of the giving or serving of alcoholic beverages at functions incidental to your *garage operations* provided you are not engaged in the business of manufacturing, distributing, selling or serving of alcoholic beverages.

## **SECTION III - FIRE LEGAL LIABILITY COVERAGE**

Liability Coverage for *garage operations* is changed as follows:

1. The insurance applies to *property damage* caused by fire to premises while rented to you or temporarily occupied by you with the permission of the owner.
2. Exclusions 3 through 17 do not apply to the insurance provided by this endorsement.
3. Subject to the Aggregate Limit of Insurance - *Garage Operations* - Other Than Covered Autos, the most we will pay for all *property damage* resulting from any one fire is \$100,000 unless another limit is shown in the Schedule of the Broadened Coverage - Garages Endorsement.
4. This insurance is excess over any collectible property insurance (including any deductible portion of that insurance) available to the *insured*.

## **SECTION IV - INCIDENTAL MEDICAL MALPRACTICE LIABILITY COVERAGE**

Liability Coverage is changed by adding the following exclusion:

This insurance does not apply to any *insured* in the business or occupation of providing any of the services listed under the following definition.

As used in this endorsement:

"*Bodily injury*" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.

*Bodily injury* also includes injury resulting from:

1. Providing or failing to provide any medical or related professional health care services;
2. Furnishing food or drink connected with any medical or other professional health care services; or
3. Furnishing or dispensing drugs or medical, dental or surgical supplies or appliances.

## **SECTION V - NONOWNED WATERCRAFT COVERAGE**

Liability Coverage is changed as follows:

1. The Watercraft or Aircraft Exclusion is replaced by the following:

This insurance does not apply to:

- a. Any aircraft; or
- b. Any watercraft except a watercraft under 26 feet that is not owned by you nor being used to carry persons or property for a charge.

But this exclusion does not apply to watercraft ashore on premises where you conduct *garage operations*.

2. If there is other applicable insurance covering damages payable under Nonowned Watercraft Coverage, we will not make any payments under this coverage.

## **SECTION VI - ADDITIONAL PERSONS INSURED**

Liability Coverage is changed by adding the following to Who Is an Insured:

If you are a partnership, the spouse of a partner is an *insured* with respect to the conduct of your garage business.

## **SECTION VII - AUTOMATIC LIABILITY COVERAGE - NEWLY ACQUIRED GARAGE BUSINESS (90 days)**

As used in this endorsement:

"*Insured*" means any person or organization qualifying as an insured in the Who Is an Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each *insured* who is seeking coverage or against whom a claim or *suit* is brought.

*Insured* also includes as named *insured* any garage business that is acquired or formed by you and over which you maintain ownership or majority interest.

However, *insured* does not include any garage business:

1. That is a joint venture;
2. That is an *insured* under any other similar liability or indemnity policy;
3. That has exhausted its Limit of Insurance under any other similar liability or indemnity policy; or
4. Ninety days or more after its acquisition or formation by you.

## **SECTION VIII - LIMITED WORLDWIDE LIABILITY COVERAGE**

1. The Policy Period, Coverage Territory Garage Condition is changed by adding the following:

We also cover *bodily injury*, *property damage*, or *personal and advertising injury* that:

- a. Occurs during the policy period shown in the Declarations; and
- b. Is caused by an *insured* who permanently lives within the coverage territory while the *insured* is temporarily outside of one of those places.

The original suit for damages resulting from such *bodily injury, property damage, or personal and advertising injury* must be brought within the coverage territory.

2. We will not provide Limited Worldwide Liability Coverage for any work you performed.

#### SCHEDULE

Coverages	Limit of Insurance
PERSONAL AND ADVERTISING INJURY	\$ 500,000

#### ILLINOIS GARAGE LIABILITY COVERAGE CHANGES

This endorsement modifies insurance provided under the following:

##### GARAGE COVERAGE FORM

###### 1. Changes in Liability Coverage

Paragraph a of item 3, Who is an Insured, under Part A, Coverage, in Section II - Liability Coverage is replaced by the following:

- a. The following are *insureds* for covered *autos*:
  - (1) You for any covered *auto*;
  - (2) Anyone else while using with your permission a covered *auto* you own, hire or borrow except:
    - (a) The owner or anyone else from whom you hire or borrow a covered *auto*. This exception does not apply if the covered *auto* is a *trailer* connected to a covered *auto* you own.
    - (b) Your employee if the covered *auto* is owned by that employee or a member of his or her household.
    - (c) Your customers, if your business is shown in the Declarations as an *auto dealership*, but only for amounts in excess of the limits required by the Illinois Safety Responsibility Law. Your customers are *insureds* up to the limits required by the Illinois Safety Responsibility Law.
    - (d) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered *auto* owned by him or her or a member of his or her household.
  - (3) Anyone liable for the conduct of an *insured* described above but only to the extent of that liability.

###### 2. Changes In General Conditions

The following is added to the Other Insurance Condition:

CA-7224(6-03)

- e. Liability Coverage provided by this Coverage Form for any *auto* you do not own is primary if:
  - (1) The *auto* is owned or held for sale or lease by a new or used vehicle dealership;
  - (2) The *auto* is operated by an *insured* with the permission of the dealership described in Paragraph e.(1) while your *auto* is being repaired or evaluated; and
  - (3) The Limit of Insurance for Liability Coverage under this policy is at least:
    - (a) \$100,000 for *bodily injury* to any one person caused by any one accident;
    - (b) \$300,000 for *bodily injury* to two or more persons caused by any one accident; and
    - (c) \$50,000 for *property damage* caused by any one accident.
- f. If you are a new or used vehicle dealership, Liability Coverage provided by this Coverage Form for any *auto* you own or hold for sale or lease, which is operated by an *insured* with your permission while such *insured's auto* is being repaired or evaluated is excess over any other collectible insurance if such *insured* has liability insurance providing limits of at least:
  - (1) \$100,000 for *bodily injury* to any one person caused by any one accident;
  - (2) \$300,000 for *bodily injury* to two or more persons caused by any one accident; and
  - (3) \$50,000 for *property damage* caused by any one accident.

## MISSOURI UNDERINSURED MOTORISTS COVERAGE

CA-3104F(4-01)

For a covered *auto* licensed or principally garaged in, or *garage operations* conducted in, Missouri, this endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GARAGE COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

### A. COVERAGE

1. We will pay all sums the *insured* is legally entitled to recover as compensatory damages from the owner or driver of an *underinsured motor vehicle*. The damages must result from *bodily injury* sustained by the *insured* caused by an *accident*. The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the *underinsured motor vehicle*.
2. We will pay under this coverage only if a or b below applies:
  - a. The limit of any applicable liability bonds or policies have been exhausted by payment of judgments or settlements; or
  - b. A tentative settlement has been made between an *insured* and the insurer of the *underinsured motor vehicle* and we:
    - (1) Have been given prompt written notice of such tentative settlement; and
    - (2) Advance payment to the *insured* in an amount equal to the tentative settlement within 30 days after receipt of notification.
3. Any judgment for damages arising out of a *suit* brought without our written consent is not binding on us.

### B. WHO IS AN INSURED

If the Named Insured is designated in the Declarations as:

1. An individual, then the following are *insureds*:
  - a. The Named Insured and any *family members*. However, this does not include any *family member*, other than the Named Insured's spouse, who owns an *auto*.
  - b. Anyone else *occupying* a covered *auto* or a temporary substitute for a covered *auto*. The covered *auto* must be out of

service because of its breakdown, repair, servicing, loss or destruction.

- c. Anyone for damages he or she is entitled to recover because of *bodily injury* sustained by another *insured*.
2. A partnership, limited liability company, corporation or any other form of organization, then the following are *insureds*:
  - a. Anyone *occupying* a covered *auto* or a temporary substitute for a covered *auto*. The covered *auto* must be out of service because of its breakdown, repair, servicing, loss or destruction.
  - b. Anyone for damages he or she is entitled to recover because of *bodily injury* sustained by another *insured*.

### C. EXCLUSIONS

1. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
2. *Bodily injury* sustained by any person while *occupying* or struck by any vehicle owned by the Named Insured or if the Named Insured is an individual, any *family member*, that is not a covered *auto*. However, this exclusion does not apply to an individual Named Insured.
3. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
4. Punitive or exemplary damages.

### D. LIMIT OF INSURANCE

1. Regardless of the number of covered *autos*, *insureds*, premiums paid, claims made or vehicles involved in the *accident*, the most we will pay for all damages resulting from any one *accident* is the limit of Underinsured Motorists Coverage shown in the Declarations.
2. We will not pay for any element of *loss* if a person is entitled to receive duplicate payment under any of the following or similar law:
  - a. Workers' compensation law; or
  - b. Disability benefits law.
3. No one will be entitled to receive duplicate payments for the same elements of *loss* under this Coverage and this policy's Liability Coverage.
4. We will not make a duplicate payment under this Coverage for any element of *loss* for which payment has been made by or for anyone who is legally responsible.

## E. CHANGES IN CONDITIONS

The Conditions are changed for Missouri Underinsured Motorists Coverage as follows:

1. Other Insurance in the Business Auto and Garage Coverage Forms and Other Insurance - Primary And Excess Insurance Provisions in the Truckers and Motor Carrier Coverage Forms are replaced by the following:

If there is other applicable insurance available under one or more policies or provisions of coverage:

- a. The maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any coverage form or policy providing coverage on either a primary or excess basis.
- b. Any insurance we provide with respect to a vehicle the Named Insured does not own shall be excess over any other collectible underinsured motorists insurance providing coverage on a primary basis.
- c. If the coverage under this coverage form is provided:
  - (1) On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.
  - (2) On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.

2. Duties In The Event Of Accident, Claim, Suit Or Loss is changed by adding the following:

- a. Promptly notify the police if a hit-and-run driver is involved, and
- b. Promptly send us copies of the legal papers if a suit is brought.
- c. A person seeking Underinsured Motorists Coverage must also promptly notify us in writing of a tentative settlement between the insured and the insurer of the underinsured motor vehicle and allow us to advance payment to that insured in an amount equal to the tenta-

tive settlement within 30 days after receipt of notification to preserve our rights against the insurer, owner or operator of such *underinsured motor vehicle*.

3. Transfer Of Rights Of Recovery Against Others To Us is changed by adding the following:

If we make any payment and the *insured* recovers from another party, the *insured* shall hold the proceeds in trust for us and pay us back the amount we have paid.

Our rights do not apply under this provision with respect to damages caused by an accident with an *underinsured motor vehicle* if we:

- a. Have been given prompt written notice of a tentative settlement between an *insured* and the insurer of an *underinsured motor vehicle*; and
- b. Fail to advance payment to the *insured* in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the *insured* in an amount equal to the tentative settlement within 30 days after receipt of notification:

- a. That payment will be separate from any amount the *insured* is entitled to recover under the provisions of Underinsured Motorists Coverage; and
- b. We also have a right to recover the advanced payment.

4. The following condition is added:

### Arbitration

- a. If we and an *insured* disagree whether the *insured* is legally entitled to recover damages from the owner or driver of an *underinsured motor vehicle* or do not agree as to the amount of damages that are recoverable by that *insured*, both parties may agree to an arbitration and to be bound by the results of that arbitration. However, disputes concerning coverage under this endorsement may not be arbitrated. If both parties so agree, then each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.

- b. Unless both parties agree otherwise, arbitration will take place in the county in which the *insured* lives. Local rules of

law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

#### F. ADDITIONAL DEFINITIONS

As used in this endorsement:

1. "*Family member*" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
2. "*Occupying*" means in, upon, getting in, on, out or off.
3. "*Underinsured motor vehicle*" means a land motor vehicle or trailer for which a *bodily*

*injury* liability bond or policy applies at the time of an *accident* but the amount paid for *bodily injury* under that bond or policy to an *insured* is not enough to pay the full amount the *insured* is legally entitled to recover as damages.

However, *underinsured motor vehicle* does not include any vehicle:

- a. Owned or operated by a self insurer under any applicable motor vehicle law or;
- b. Designed for use mainly off public roads while not on public roads.

#### TITLE PAPER PREPARATION - ERRORS AND OMISSIONS

CA-7112(3-2000)

This endorsement modifies insurance provided under the following:

##### GARAGE COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

#### 1. CHANGES IN LIABILITY COVERAGE

- a. The following coverage is added:

We will pay all sums an *insured* legally must pay as damages arising solely out of an act, error or omission made by an *insured* in your *garage operations* as a result of *title paper preparation*.

We have the right to defend any *suit* against the *insured* seeking damages on account of such acts, errors or omissions, even if any of the allegations of the *suit* are groundless, false or fraudulent and may make such investigation and settlement of any claim or *suit* as we deem expedient.

- b. The following exclusion is added:

##### Intentional Acts, Errors or Omissions

This insurance does not apply to, and we have no duty to defend, any liability or claim arising out of any dishonest, fraudu-

lent, criminal or intentional acts, errors or omissions committed by an *insured* while acting alone or in collusion with others.

#### 2. LIMIT OF INSURANCE

The most we will pay for the sum of all damages arising from acts, errors or omissions committed during the policy period is the Aggregate Limit of Insurance shown in the Schedule.

The Aggregate Limit of Insurance applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Aggregate Limit of Insurance.

#### 3. ADDITIONAL DEFINITION

As used in this endorsement:

"*Title paper preparation*" means the preparation of official title papers for registering an *auto* sold by you. This includes the designation of a lienholder who holds a financial interest in the *auto*.

#### SCHEDULE

##### Aggregate Limit of Insurance

\$300,000

## MISSOURI UNINSURED MOTORISTS COVERAGE

CA-2104F(4-01)

For a covered *auto* registered or principally garaged in, or *garage operations* conducted in, Missouri, this endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GARAGE COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

### A. COVERAGE

1. We will pay all sums the *insured* is legally entitled to recover as compensatory damages from the owner or driver of an *uninsured motor vehicle*. The damages must result from *bodily injury* sustained by the *insured* caused by an *accident*. The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the *uninsured motor vehicle*.
2. Any judgment for damages arising out of a *suit* brought without our written consent is not binding on us.

### B. WHO IS AN INSURED

If the Named Insured is designated in the Declarations as:

1. An individual, then the following are *insureds*:
  - a. The Named Insured and any *family members*. However, this does not include any *family member*, other than the Named Insured's spouse, who owns an *auto*.
  - b. Anyone else *occupying* a covered *auto* or a temporary substitute for a covered *auto*. The covered *auto* must be out of service because of its breakdown, repair, servicing, loss or destruction.
  - c. Anyone for damages he or she is entitled to recover because of *bodily injury* sustained by another *insured*.
2. A partnership, limited liability company, corporation or any other form of organization, then the following are *insureds*:
  - a. Anyone *occupying* a covered *auto* or a temporary substitute for a covered *auto*. The covered *auto* must be out of service because of its breakdown, repair, servicing, loss or destruction.
  - b. Anyone for damages he or she is entitled to recover because of *bodily injury* sustained by another *insured*.

### C. EXCLUSIONS

1. Any claim settled without our consent, if the settlement or judgment prejudices our right to recover payment.
2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
3. Bodily *injury* sustained by any person while *occupying* or struck by any vehicle owned by the Named Insured or if the Named Insured is an individual, any *family member*, that is not a covered *auto*. However, this exclusion does not apply to an individual Named Insured.
4. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
5. Punitive or exemplary damages.

### D. LIMIT OF INSURANCE

1. Regardless of the number of *insureds*, premiums paid, claims made or vehicles involved in the *accident*, the most we will pay for all damages resulting from any one *accident* is the limit of Uninsured Motorists Coverage shown in the Declarations.

However, if *bodily injury* to which this coverage applies is sustained by any person other than an individual Named Insured or any *family member*, the Limit of Insurance shown in the Declarations for this coverage is also the most we will pay regardless of the number of covered *autos*.

2. If there are two or more covered *autos*, that are not trailers, and *bodily injury* is sustained by an individual Named Insured or any *family member*, our Limit of Insurance for any one *accident* is the sum of the limits applicable to each covered *auto* which is not a *trailer*. Subject to this maximum limit of liability for all damages:
  - a. The most we will pay for all damages sustained in such *accident* by an *insured* other than an individual Named Insured or any *family member* is that *insured's* pro rata share of the limit shown in the Declarations for this coverage, at the time of the *accident*.
  - b. An individual Named Insured or any *family member* who sustains *bodily injury* in such *accident* will also be entitled to a pro rata share of the limit described in Paragraph a above.

A person's pro rata share is the proportion that that person's damages bears to the total damages sustained by all *insureds*.